

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

OMNIPOINT HOLDINGS, INC.,)
Plaintiff,)
v.) Civil Action No. 04-11722 RWZ
THE TOWN OF BEDFORD, ZONING BOARD)
OF APPEALS OF THE TOWN OF)
BEDFORD, ROBERT ELLIS, JEFFREY COHEN,)
DAVID EZEKIEL and LOUISE MAGLIONE)
in their capacities as members of the)
Town of Bedford Zoning Board of Appeals,)
Defendants.)

JUDGMENT AND ORDER

Pursuant to Section 704 of the Telecommunications Act of 1996, codified at 47 U.S.C. § 332(c)(7) (the “TCA”), the parties’ Agreement for Judgment filed with this Court, the documents and information submitted in this action, and based on applicable law, the Court finds and orders as follows:

1. That Final Judgment hereby enters in favor of the Plaintiff Omnipoint Holdings, Inc. (“Omnipoint”) on Count I of the Complaint which asserts that the denial of Omnipoint’s application for a special permit (the “Application”) violates the TCA in that it is not supported by substantial evidence contained in a written record .
2. The decision of the Defendants, the Town of Bedford Zoning Board of Appeals (the “Board”) and Robert Ellis, Jeffrey Cohen, David Ezekiel and Louise Maglione in their capacities as members of the Town of Bedford Zoning Board of Appeals, on Omnipoint’s Application, which was filed with the Bedford Town Clerk on July 8, 2004,

regarding Omnipoint's proposed wireless communications facility ("WCF") to be located at 340 The Great Road, Bedford, MA (the "Site") is: (a) vacated to the extent it denied a request for a special permit for Omnipoint's WCF and (b) amended to grant a special permit for Omnipoint's WCF in accordance with the plans filed with the Board as part of Omnipoint's Application as modified by the parties' Agreement for Judgment, which provides that the stealth chimneys shall be constructed, installed and/or painted so that their appearance and color are reasonably consistent with the facing on the rest of the building at the site. This Final Judgment shall operate as grant of the special permit.

Further, pursuant to the parties' Agreement for Judgment, it is ordered that this Judgment and Order shall be entered forthwith and that the Defendants need take no further actions, conduct further meetings, hold hearings, or issue any further decisions.

3. Each party shall bear their own costs and fees.

So ordered:



_____, J.
United States District Court

Dated: 4/15, 2005.